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COMMITTEE AGAINST TORTURE

Twenty-sixth session

SUMMARY RECORD OF THE 460th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 2 May 2001, at 10 a.m.

Chairman: Mr. BURNS

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Third periodic report of Greece (CAT/C/39/Add.3)

1. At the invitation of the Chairman, Mr Spinellis and Ms Papamitropoulos (Greece) took places at the Committee table.

2. Mr. SPINELLIS (Greece), introducing the third periodic report of Greece (CAT/C/39/Add.3), noted that the Greek Constitution not only prohibited torture, as all previous constitutions had done since 1823, but stipulated that, by law, all acts of torture were punishable criminal offences. Legislation adopted in 1994 had in fact added four articles to the Criminal Code making torture and all acts that violated human dignity crimes punishable by 5 to 20 years' deprivation of liberty, depending on the seriousness of the offence, and even by life imprisonment if the victim had died. Greece had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and cooperated regularly with the European Committee for the Prevention of Torture.

3. Under an Act passed in 1995, a prosecutor of the court of appeal, assisted by a deputy, was assigned each year to the country's four major prisons with a view to ensuring that the law was consistently upheld. Prosecutors were magistrates who enjoyed the same protections as judges, and when they were assigned to a prison they were fully independent and had complete freedom in ensuring that human rights were respected and torture was not practised. Other prisons in the country were supervised by a member of the public prosecutor's office, who visited them once a week.

4. The same 1995 legislation had established the Central Prisons Scientific Board, which was composed of noted jurists and experts, the head of the General Directorate of Correctional Policy, the health control inspector and the head of the social work service. The Board submitted proposals to the Minister of Justice concerning correctional policy and the operation of detention facilities, visited prisons and organized the training of prison personnel. The Act in question also established a prison board in every detention facility which was composed of the prison warden, the senior psychologist or social worker and a specialist (such as a lawyer or educator) and which dealt with prisoners' education and their relations with the outside world. Lastly, the Act provided for an increase in the number of staff in correctional institutions, particularly psychologists and social workers.

5. During their training, prison guards studied the Correctional Code and also human rights texts of the United Nations and the Council of Europe. The 1989 Correctional Code had recently undergone a thorough revision and had been improved in such areas as prison leave and the handling of mutinies, which had been made the responsibility of a prosecutor.

6. Under article 12 of the Convention, all complaints made against correctional officers alleging assault or torture were not only investigated by the judicial authorities but resulted in a disciplinary procedure. From 1994 to 1997 only five such complaints had been made, and upon investigation, it had been determined that the accusations had been unfounded.

7. Turning to a series of questions that had not been discussed in the report (CAT/C/39/Add.3), he said that three bodies entirely independent of the executive power had been established in 1997 and 1998: the National Human Rights Committee, which received complaints of human rights violations; a special body set up to investigate such matters as infringements of the right to privacy and the processing of personal data; and an Ombudsman's office which had already received more than 1,000 complaints. In addition, an Act passed in 1999 had established a system of free legal assistance for indigent persons. Lastly, a presidential decree guaranteed respect for the rights of asylum-seekers, offering special protection to women and children; the decree specifically established the principle of non-refoulement of asylum-seekers while their applications for asylum were under consideration. Recently adopted legislation that had yet to be promulgated provided for new regulations in that area.

8. The conditions of detention in police stations were a source of major concern for the Greek authorities. Every police station had facilities for holding persons who had been arrested by order of a judge or caught committing a crime, persons who were inebriated or mentally ill and foreigners whose papers were not in order who were awaiting expulsion. A few years previously, such foreigners had not posed any special problems because they had been few in number. Recently, however, the number of illegal immigrants had increased phenomenally; according to the latest data, out of a total population of 11 million, Greece had some 800,000 immigrants, many of whom were in the country illegally and some of whom were criminals, often members of organized gangs. Part of the reason the number of foreigners held in police stations prior to expulsion was so high was that they stayed there too long, either because they lacked identity papers or had false papers, because they refused to contact their consulates, because they were applying for asylum for which they were ineligible but which nevertheless gave rise to a lengthy procedure or because they were resisting expulsion.

9. Decisions to expel foreigners were taken by the authorities - usually the police, in the case of illegal immigrants, or the courts, in the case of criminals; generally speaking, criminals were not expelled pursuant to a court decision until they had served their sentence, although in some cases they could be expelled immediately. Prior to expulsion, all such persons were held in cells in police stations that had been designed to hold 5 to 10 persons but currently held 40 to 50 in awful conditions that had been denounced by the European Committee for the Prevention of Torture.

10. Faced with that new development, the authorities had taken a number of steps. First of all, recent legislation made it possible to issue temporary residence permits to such individuals until their cases were settled on terms similar to those applicable to persons awaiting sentencing: mandatory regular appearances at the police station, reporting of their place of residence and so forth. The same law spelled out in detail the conditions governing administrative expulsions.

Any foreigner sentenced to a prison term of more than one year could, for example, be expelled without having served his or her sentence; an expulsion order could be automatically suspended on humanitarian grounds at the order of a higher administrative authority but not of the police; a person could be detained if there was reason to believe he or she would disappear. As another emergency measure, the Ministry of the Interior had ordered all police stations to renovate their facilities and maintain them in good condition, and had launched a major programme of prison construction and renovation. Lastly, as a provisional measure, an Act passed in 1999 stipulated that foreigners who were liable to court-ordered expulsion would no longer be detained in police stations but in prisons, which of course transferred the problem to those institutions.

11. A programme was currently under way to increase the capacity of the Greek prison system, since facilities that were normally intended to hold a total of 4,300 prisoners were currently housing twice that number. When the programme was completed more than 8,000 places would have been created.

12. With regard to the rights of detainees, he said that circulars regularly reminded police officers that they were required to implement the relevant legislation strictly and that individuals who did not respect those rules were liable to severe criminal and disciplinary sanctions. The first such rule was respect for the right of all detainees, including those under expulsion orders, to inform their family and consulate of their situation. Posters informing detainees of their rights in 14 languages must be visibly posted in all facilities where detainees were held. Detainees who lacked the necessary resources were entitled to legal aid. Representatives of the Office of the United Nations High Commissioner for Refugees and non-governmental organizations (NGOs) must be given access to all detention facilities.

13. During both their initial training and on-the-job training, police officers at all levels received instruction in human rights, international conventions, case law of the European Court of Human Rights and other topics. In addition, a booklet issued to all police personnel contained instructions on how to respect the dignity and individuality of detainees while on the job.

14. With regard to sanctions imposed in cases of violations, he noted that 163 complaints of ill-treatment by police officers had been filed between 1996 and 2000, giving rise to disciplinary proceedings with the following outcomes: 24 officers had received disciplinary sanctions, 121 cases had been dismissed and 18 cases were pending. Of the total number of cases, 52 had dealt with criminal offences and 18 of those had prompted an investigation and a trial which had resulted in the dismissal of charges or an acquittal based on a lack of evidence; 34 such cases were still pending.

15. The CHAIRMAN, speaking as Country Rapporteur, thanked the representative of Greece for his detailed statement. It should be noted first of all that Greece was one of the relatively few countries that had not made a reservation to article 20 and had made the declaration provided for in article 22 of the Convention, thereby demonstrating its dedication to the principles embodied in that instrument. In view of the recent introduction of legal aid, particularly for asylum-seekers, it was likely that communications citing violations by Greece and addressed to the Committee under article 2 might multiply in the near future. Experience showed that 90 per cent of such communications came from asylum-seekers.

16. As had been noted when the Committee had considered Greece's previous report, the Greek judicial system was quite remarkable and met the requirements of the Convention. However, as the present report was quite succinct, additional information was called for, some of which had in fact been provided during the oral introduction to the report; for example, very recent statistics had just been provided on the subject of follow-up to complaints made against police officers. He would be grateful for some examples of disciplinary sanctions taken against officials and some details as to the seriousness of the acts in respect of which such sanctions had been imposed.

17. In the past the Committee had been concerned by the excessive use of force in Greek police stations; NGOs confirmed that such abuse continued, particularly vis-à-vis the Roma and foreigners, and it would therefore be useful to know what strategy the authorities had adopted to deal with that problem, which was not in fact peculiar to Greece. On the basis of specific cases, excerpts from the Ombudsman's report and statistical data, Greek Helsinki Monitor, a local NGO, maintained that a culture of impunity prevailed in Greece: it would be useful to hear the views of the delegation on that subject.

18. The Committee had received a report issued by the European Committee for the Prevention of Torture in 1994 concerning a mission that had taken place in 1993. The document was thus fairly old, and it seemed that the European Committee had prepared several subsequent reports, in 1996, 1997 and 1999. He wondered why those reports had not been issued and, if possible, what conclusions they had reached and what action had been taken in response.

19. He invited the delegation to respond to the allegation by Greek Helsinki Monitor that the police conducted searches in order to arrest immigrants whose papers were not in order. If such operations were in fact taking place, he wished to know what the Government thought about their compatibility with the European Convention on Human Rights.

20. Moreover, the NGO also claimed that prosecutors and judges encouraged a culture of impunity, as demonstrated by the lenience with which law enforcement officers accused of inflicting ill-treatment on illegal immigrants were judged. The independence of those judges was not at issue, but their attitude showed that they did not attach sufficient importance to respect for the rights of illegal immigrants. He wished to know what the State party thought about that allegation.

21. Lastly, he asked the delegation to comment on the decision by the European Court of Human Rights in the Dougoz v. Greece case. In the Court's conclusions, the applicant, an illegal immigrant who had been detained for a long period, claimed that as his detention had not been based on an administrative or judicial decision, he had been unable to avail himself of any domestic remedy to contest that measure. Did that mean that a person deprived of liberty by an authority other than the courts or the administration did not enjoy the right of habeas corpus in the State party?

22. Mr. RASMUSSEN, Alternate Country Rapporteur, recalled that Greece had played a leading role in research into the medical aspects of torture. The first international congress on that topic had been held in Athens in 1979, and the first seminars in that field had been held in

Greece. Moreover, shortly before the Committee's twenty-fifth session, he had had the opportunity to report on the Committee's activities as part of a seminar on torture organized by the University of Athens.

23. He noted with satisfaction that the concise information in the report had been considerably amplified by the oral statement by the representative of Greece. Unfortunately, no information had been provided on the follow-up to one of the recommendations made by the Committee following its consideration of Greece's second periodic report, concerning the training of medical personnel in the prohibition of torture (A/49/44, para. 157). He wished to know what measures had been taken or were being planned by the Government in that area. Given that one of the tasks of the centres for the rehabilitation of torture victims was to train police personnel, it would seem natural for those centres to train physicians assigned to prisons as well.

24. He welcomed the information provided in the report on courses on human rights given to new prison guards and asked whether the prohibition of torture was part of the curriculum.

25. He asked whether audio or video recordings were made of interrogations and whether the time at which interrogations began and ended and the names of the officials participating and other persons present were recorded. He also wished to know whether the rules, instructions, methods and practices relating to interrogations were systematically monitored in accordance with article 11 of the Convention.

26. In connection with articles 12 and 13 of the Convention, the representative of Greece had noted in his oral statement that 1,000 complaints had been received by the Ombudsman. It would be useful to know how many of those complaints dealt with violations of the Convention.

27. With regard to compensation and rehabilitation (art. 14), he wished to know the amount and the source of compensation paid to torture victims, whether a request for compensation was triggered automatically or whether it had to be initiated by the victim, and whether provision for compensation was made in the Civil Code as well as in the Criminal Code. He wondered whether the actions of public officials found guilty of torture entailed State responsibility and whether torture victims could obtain compensation through a means other than the courts.

28. In the context of article 15, he asked what legal guarantees existed to ensure that a statement obtained by torture was not used as evidence in a trial.

29. With regard to the prohibition of ill-treatment by public officials set out in article 16 of the Convention, he said he was aware of a brochure that existed in 14 languages and was intended to inform suspects and detainees of their rights, yet that brochure did not seem to be in use. He asked the delegation to provide clarifications on that point. Also, according to Human Rights Watch and Amnesty International, the conditions of detention in the State party could be likened to cruel, inhuman and degrading treatment, chiefly on account of the overpopulation of prisons. However, the fact that the Committee had received no allegations of torture by prison personnel and that the monitoring of prisons was properly carried out, as indicated in the report and in the oral statement by the representative of Greece was quite positive.

30. He would like to have accurate figures on prison capacity and on the number of minors and adults detained as well as the number of illegal immigrants held in police stations and other detention facilities. He also wished to know what measures the Government intended to take to solve the problem of prison overpopulation, since it was clear that the solution did not lie only in building new facilities. That problem was compounded by the lack of personnel, a lack which, according to a recent article in the Greek press, would become particularly acute in the juvenile probation services as a result of retirements. He wished to know whether there were similar shortages of staff in prisons and, if so, what the Government intended to do about that problem.

31. He welcomed the project to limit intervention in prison mutinies to the police. However, it would be preferable to prevent mutinies and prisoner violence altogether. He wished to know what measures were being taken to that end.

32. With regard to illegal immigrants who were detained, he wished to know what percentage they represented and what grounds were used to justify their detention. According to some NGOs, a number of such immigrants had been detained in police stations. The Greek authorities were in fact overwhelmed by massive flows of illegal immigrants, but police facilities could hardly be used to hold persons for extended periods. He therefore recommended that the Government should build special detention facilities for illegal immigrants in which detainees could have access to the media (radio, television and the press) and medical treatment. The State party's reaction to that proposal would be welcome.

33. It was apparent from one case cited by an NGO that the treatment of persons who refused to be expelled from the country was a source of concern. He wondered whether instructions telling police officers how to behave in such situations existed.

34. He drew attention to the 1993 report of the European Committee for the Prevention of Torture and asked whether there had been any follow-up to the recommendations it contained regarding the improvement of prison conditions in the Piraeus and Kyrydallas detention centres and the institution of medical examinations for detainees upon their arrival in prison.

35. The CHAIRMAN recalled that Greece was one of the major contributors to the United Nations Voluntary Fund for Victims of Torture, to which the Committee attached great importance.

36. Ms. GAER said that, given the wealth of information available to the delegation, it was surprising that the third periodic report of Greece should be so succinct. The report provided a full and up-to-date overview of the legislative framework but contained no statistical information. Yet without any figures on the number of detainees and other persons deprived of liberty it was difficult to determine whether NGOs were right to criticize the overpopulation of Greek prisons. The Committee would like to receive statistics on the prison population according to sex and minority affiliation or national origin. It was not clear what the Committee was supposed to make of the allegations made by Greek Helsinki Monitor that the authorities were engaging in "racial profiling" of the population. Furthermore, a manual issued by the Greek police defined prostitutes, homosexuals, drug addicts, migrants and the Roma as criminals. She wished to know whether that information was accurate. She also sought confirmation that refugees were largely of Afghan, Iraqi, Iranian or Turkish nationality. She

asked what type of facilities were used to shelter them, and whether refugees enjoyed special protection. The delegation should also provide additional information on the treatment of women prisoners with young children and pregnant women in women's prisons. Did prison authorities monitor sexual prison violence in facilities for men as well as in facilities for women? And did a complaint procedure exist? She also wished to know whether the Greek authorities had responded to accusations made against the police of trafficking in women - particularly illegal immigrants from the former Soviet Union who were lured into prostitution rings - or complicity in such trafficking. Lastly, she asked how civil matters such as divorce and marriage were regulated among members of the Turkish community when there was a contradiction between Turkish and Greek law.

37. Mr. YAKOVLEV said that he would like to see the text of article 1.3.7 of the Criminal Code, concerning Greece's obligations under the Convention, in order to verify that that provision was consistent with article 1 of the Convention.

38. Mr. SILVA HENRIQUES GASPAR said he wished to know how the public prosecutor's office was related to the Ministry of Justice and what the conditions were for appointment to that office, particularly to the post of public prosecutor.

39. The CHAIRMAN invited the delegation of Greece to return at a subsequent meeting to answer the Committee's questions.

40. Mr. Spinellis and Ms. Papamitropoulos (Greece) withdrew.

The meeting was suspended at 11.40 a.m. and resumed at noon

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued) (E/CN.4/2001/67)

41. The CHAIRMAN invited Mr. Mavrommatis to report to the Committee on the outcome of the most recent meeting of the Working Group on a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

42. Mr. MAVROMMATIS said that the Working Group, which had met several times in recent years, had made little progress in its work owing to a major disagreement between States as to whether it was appropriate for the proposed new international mechanism to visit national detention centres. While negotiations on the draft optional protocol had thus far been conducted on the basis of a text from Costa Rica, a new draft had been submitted by the Mexican delegation at the beginning of the session with the support of the Group of Latin American and Caribbean States. The new text stressed that States had the primary responsibility for the protection of human rights and that international mechanisms must be complementary to action taken at the national level. He recalled that in the late 1970s, the creation of national mechanisms for the inspection of detention centres had been proposed and that several countries had in fact established such mechanisms. He was therefore not opposed to the establishment of such mechanisms insofar as they would be supervised by an international body. The Chairman of the Working Group had agreed to hold consultations with a view to reaching a compromise between the two drafts. He himself had conveyed to the Chairman his surprise that no link was contemplated between the Committee and the Subcommittee for the Prevention of Torture and

Other Cruel, Inhuman or Degrading Treatment or Punishment that was proposed in article 2 of the Mexican draft, since a lack of coordination between the two bodies would be disastrous. In any event, the Committee would have to follow the progress made in preparing the draft optional protocol with the help of the secretariat.

43. The CHAIRMAN said it was important to view the question of the draft optional protocol to the Convention in its historical context. Originally, the Committee against Torture had unanimously endorsed the idea of creating an international monitoring mechanism and had agreed to the creation of a subcommittee that would work with States parties to ensure the implementation of the protocol. The proposals in the document before the Committee (E/CN.4/2001/67) were slightly different in that they placed greater emphasis on monitoring mechanisms at the national level. He wondered whether the intellectually attractive idea of an international mechanism was really viable in practice, and he invited Committee members to consider the document before them and reflect on the question.

44. Mr. RASMUSSEN recalled that the Committee had originally recommended the creation of a national mechanism. An international mechanism would thus enhance the national mechanism and could operate through ad hoc visits such as those made by the European Committee for the Prevention of Torture. The idea of a draft optional protocol had been around for 10 years, and it was time to consider voting on the draft. It would be impossible in any case to satisfy all States, and there was a risk that the content of the future instrument might be watered down if the matter was prolonged.

45. Mr. MAVROMMATIS pointed out that the consultations in progress were aimed precisely at setting a deadline for a vote on the draft.

46. Ms. GAER noted that the draft contained in document E/CN.4/2001/67 was different from the initial draft. It was very difficult to use the new document, which reflected the positions of delegations without even identifying them. It would be useful to have the text of statements on the question made by, for example, Mr Mavrommatis and the Special Rapporteur of the Commission on Human Rights on the question of torture and to devote a closed meeting to consideration of the subject, particularly from the standpoint of the effectiveness of efforts to prevent and prohibit torture.

47. The CHAIRMAN said that the secretariat could provide a summary of the statements in question.

48. Mr. MAVROMMATIS said that the Committee should not overestimate its capacity to influence the debate, since in the final analysis the question of the draft optional protocol was eminently political.

49. The CHAIRMAN suggested that the Committee should await the outcome of the consultations being conducted by the Chairman of the Working Group before taking up the question.

50. It was so decided.

Documents submitted by non-governmental organizations

51. The CHAIRMAN reminded Committee members that it had been decided at the twenty-first session that all documents from NGOs received by the Committee up to five weeks prior to the beginning of a session would be transmitted to the State party concerned, while those that arrived after that deadline could be consulted by the State party in the offices of the secretariat.

52. Mr. BRUNI (Office of the United Nations High Commissioner for Human Rights) said that it had not been possible to apply that rule consistently: it was in fact quite rare for the secretariat to receive NGO documents on time, except in the case of Amnesty International, although that organization also made sure to send the relevant information directly to the State concerned. In practice, the secretariat provided States parties with a list of the relevant documents in its possession, and missions contacted the secretariat, usually one week before the beginning of a session.

53. Mr. GONZÁLEZ POBLETE asked whether, out of respect for the principle of fairness, Committee members had the right to refer to NGO documents during consideration of the report of a State party when the State party had not seen them beforehand.

54. The CHAIRMAN said that the question raised by way of example was whether a Committee member had the right, during an exchange of information with a State party, to refer to a torture case that had just been discussed in the press. In his view, the Committee was not a judicial body. Consequently it was not bound to apply the rule cited by Mr. González Poblete as stringently as it would in a courtroom. What was most important was that Committee members and the States parties concerned should have the relevant documents for their work. He commended the secretariat for its pragmatic approach to the matter.

55. Mr. CAMARA said that the State party could always answer questions from Committee members concerning a specific case in writing at a later date if it was unable to give an immediate response.

56. Ms. GAER said that the question formed was part of a larger debate on the sources of the information used by treaty bodies and pointed out that different practices coexisted within those bodies. In general, the transmission of NGO documents to State parties tended to be encouraged, which reflected the openness of spirit and concern for fairness of all the parties involved. She did not think it was useful for the Committee against Torture to take an official position on the matter.

57. The CHAIRMAN said that the question was an important one and would undoubtedly be raised again during the session.

The meeting rose at 12.55 p.m.